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UNITED STATES OF AMERICA

FEDERAL COMMUNICATIONS COMMISSION

In the Matter of Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunication Technologies	))))	**Docket No. ET92-9**

COMMENTS OF ENRON PIPELINES

Pursuant to the Notice of Proposed Rulemaking ("NOPR") adopted on January 16, 1992 by the Federal Communications Commission ("Commission") in Docket No. ET92-9, Northern Natural Gas Company, Florida Gas Transmission Company, Houston Pipe Line Company, and Northern Border Pipeline Company, (hereinafter collectively referred to as "Pipelines") each herein file comments on the proposed rule.

I.

INTRODUCTION

Northern Natural Gas Company ("Northern") is an interstate natural gas company with pipeline facilities which extend from the State of Texas and Offshore Gulf Coast through the upper midwestern area of the United States. It transports natural gas in interstate commerce for numerous customers and sells natural gas for resale to approximately 75 utility customers generally located in the states of Texas, Kansas, Nebraska, Iowa, Illinois, Minnesota, South Dakota, Wisconsin, and the upper peninsula of Michigan.

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Florida Gas Transmission Company ("Florida Gas"), a wholly owned subsidiary of Citrus Corp. which is fifty percent (50%) owned by a subsidiary of Enron Corp. and fifty percent (50%) owned by Sonat, Inc., is a natural gas pipeline company which transports natural gas in interstate commerce and purchases and receives natural gas from suppliers in the Gulf Coast area of Texas, Louisiana, Mississippi, Alabama, Florida, and the Offshore Federal Domain, and sells and delivers such gas into the State of Florida for both resale and direct consumption.

Houston Pipe Line Company ("HPL") is an intrastate pipeline engaged in the purchase, transmission and sale of natural gas wholly within the State of Texas. HPL owns and operates approximately 4,500 miles of natural gas gathering and transmission facilities throughout Texas. HPL sells and transports gas to local distribution companies, other intrastate pipelines, electric utilities, industrial users, agricultural users and other direct end-users. In addition, HPL transports significant volumes of natural gas on behalf of qualified parties under Section 311(a)(2) of the Natural Gas Policy Act of 1978. HPL also provides storage services to third parties at its Bammel Storage Reservoir located in Harris County, Texas.

Northern Border Pipeline Company ("Northern Border") is a general partnership formed under the laws of the State of Texas. The Northern Border partners and their ownership/voting interests in Northern Border are as follows: Northern Plains Natural Gas Company, an affiliate of Enron Corp., 35%; Northwest Border Pipeline Company, an affiliate of The Williams Companies, 12.25%; Pan Border Gas Company, an affiliate of Panhandle Eastern Corporation, 22.75%; TransCanada Border PipeLine Ltd., an affiliate of TransCanada PipeLines Limited, 16%; and TransCan Northern Ltd., also an affiliate of TransCanada PipeLines Limited, 14%. Northern Border's transportation-only pipeline was conceived and placed into operation as the Eastern Leg "pre-built" portion of the Alaskan Natural Gas Transportation System.[1] Northern Border's facilities extend some 823 miles from the Canadian - U.S. boundary near Monchy, Saskatchewan to Ventura, Iowa.

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[1]The multi-billion dollar ANGTS proposal was designed to transport natural gas reserves from the Prudhoe Bay, Alaska to the lower-48 states and represented an international, cooperative venture subject to special legislative and regulatory treatment in both the U.S. and Canada. The southern-most segments of the ANGTS were "pre-built" to permit the early transport of Canadian supplies to the U.S. in advance of the Alaskan reserves coming on line. Completion of the north Canadian and Alaskan segments of ANGTS has been delayed indefinitely due to economic and market conditions.

II.

PROCEDURAL BACKGROUND

On January 16, 1992, the Commission adopted the NOPR in the instant docket which would establish new areas of the spectrum to be used for emerging telecommunication technologies. In addition to designating frequency bands for such technologies, the NOPR would provide for the relocation of current users of such bands to other fixed microwave bands or alternative media. The NOPR would provide for a transition period of ten to fifteen years during which current licensees would be allowed to continue to operate on their current frequencies on a co-primary basis, and would be allowed to operate on a secondary basis thereafter. The Commission would encourage providers of new services assigned spectrum allocated to the new emerging technologies band to negotiate financial arrangements with existing licensees during the transition period.

III.

DISCUSSION

Pipelines' operational and financial interests which could be affected by the Commission's proposal are substantial. Two of Pipelines' systems are particularly dependent upon microwave communication in the affected frequency ranges. The Northern Border system, which extends from the Canadian border near Monchy, Saskatchewan to Ventura, Iowa, has an extensive microwave system along the entire length of its pipeline. It uses this system to transmit all of the pipeline operating data, pipeline supervisory control and business data. In addition, the system is used to transmit voice communications to remote locations and to control two-way radio communication to mobile vehicles. HPL's system, which extends from the Louisiana border to near the Mexican border, uses a microwave system to provide voice and data transmission throughout the Texas Gulf Coast area. HPL also performs certain services for Florida Gas using its microwave system. In the Houston metropolitan area, there are, as a practical matter, no frequencies currently available in the higher frequency bands in the event that HPL is forced to migrate to such bands.

Northern's pipeline system utilizes two short microwave systems. One operated system extends from Matagorda Platform 686 to Tivoli, Texas. Another system extends from Grand Junction, Colorado to the Meeker, Colorado area.

The costs of relocating Pipelines' microwave systems to higher frequencies would be substantial. Pipelines' companies together have more than 70 microwave stations using the 1.85 to 2.20 GHz frequencies. Modifying the existing microwave stations for relocation to higher frequencies could cost as much as $200,000.00 per station. The total cost to relocate all of Pipelines' existing equipment to frequencies above 3.0 GHz could be as much as $14,000,000.00.

In addition to being critical to certain of Pipelines' operations, the private operational-fixed microwave frequency bands which the Commission would reallocate to the emerging technologies are critical to the communication of data in every phase of the oil and gas industry, including but not limited to oil and gas exploration, production, pipeline transportation and distribution of oil, gas, and related petroleum products. The operation of pipelines is particularly dependent on microwave telecommunications; the impracticability of manning all areas of the pipeline requires that portions be operated on a remote basis. For safety considerations alone, it is vital that the Commission carefully consider the actions proposed in the NOPR. Pipelines cannot support the Commission's NOPR due to the operational and financial considerations stated above. In addition, Pipelines believe that the Commission's proposal is fatally flawed and will not withstand judicial review.

First, the Commission is required by Section 303(f) of the Communications Act of 1934, 47 U.S.C.S. 151 et seq., to find that the "public interest" will be served by forcibly relocating existing licensees to different frequencies. While admittedly the "public interest" standard is not clearly defined in the statute or by case law and the Commission must be afforded a great deal of deference in applying such standard, such discretion is not unlimited. In its proposal, the Commission is weighing the known, critical interests of the existing licensees against the extremely speculative benefits to be gained from emerging technologies. It seems evident that there is simply no way the Commission can make a valid public interest evaluation in these circumstances. The Commission cannot show that the public interest will be served by simply assuming that the benefits to be gained from the new technologies will outweigh the burdens caused by the forced migration of current licensees to higher frequencies. The Commission's assumption seems to be speculative at best and irresponsible at worst.

Second, the Commission's actions proposed in the NOPR are an abuse of discretion under the Administrative Procedures Act, 5 U.S.C.S. § 706 (1989). Specifically, the Commission would force the migration of current licensees to higher frequencies or "alternative media" without properly investigating whether these alternatives could reasonably duplicate the current arrangements or are in fact even available. For example, the Commission assumes that there will be frequencies available in the higher frequency bands for current licensees, although HPL, as noted above, would as a practical matter be unable to relocate to a higher frequency band for its operations in the Houston metropolitan area. Although fiber optic cable is an available alternative in the Houston metropolitan area, it is not a practical alternative because of the potential for disruption from construction and other activities that can sever the cable.

As stated above, Pipelines do not support the NOPR and the forced relocation proposed therein. However, in the event that the Commission nonetheless issues this rule, Pipelines strongly endorse an indefinite grandfathering period, rather than a transition period. This would serve three purposes: (1) existing equipment could be utilized until the end of its useful life; (2) the technologies which the Commission believes will represent acceptable alternatives for existing users will continue to be refined and developed; and (3) negotiations between existing licensees and the providers of new services will be more meaningful, given that the latter will not be able to simply delay until the transition period ends. Pipelines strongly oppose the phased spectrum implementation approach to reallocation suggested by the Commission as a possible alternative whereby specific blocks of frequencies would be made available at specified intervals. Subjecting blocks of current licensees to earlier relocation would inject an unnecessary amount of arbitrariness into the reallocation process.

In addition, Pipelines believe that, in the event that forced relocation is nonetheless mandated, closely adjacent spectrum should be made available, such as the 1710-1850 MHz band currently exclusively reserved for federal government agencies. This would help mitigate the financial impact of the transition.

IV.

CONCLUSION

WHEREFORE, for the foregoing reasons, Pipelines respectfully urge the Commission to act in a manner consistent with the views expressed herein.

Respectfully submitted,

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